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FILED

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Division of Consumer Affairs

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Deputy Attorney General
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of

RIGHT AT HOME OF CENTRAL
NEW JERSEY, L.L.C.

Administrative Action

CONSENT ORDER

WHEREAS this matter having been opened by the Division of Consumer Affairs, Office of Consumer Protection ("Division"), as an investigation in order to ascertain whether violations of the Private Employment Agency Act, N.J.S.A. 34:8-43 et seq. ("Private Employment Agency Act"), the Regulations Governing Placement of Health Care Practitioners, N.J.A.C. 13:45B-1 et seq. ("Practitioner Regulations"), and the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), have been or are being committed by Right At Home Of Central New Jersey, L.L.C., with a principal place of business in the State of New Jersey ("State" or "New Jersey") of 43 West Prospect Street, East Brunswick, New Jersey, 08816, as well as its owners, officers, directors, managers, employees, representatives, agents, subsidiaries, successors and assigns (collectively, "Respondent") (hereinafter referred to as the "Investigation");

WHEREAS the investigation revealed Respondent failed to evaluate their client's health care needs, placed non-certified caregivers with the client, provided services to the client prior to entering into a service agreement and failed to document information required in hiring/employing caregivers;

WHEREAS the Division and Respondent (collectively, the "Parties") having reached an amicable agreement resolving the issues in controversy and concluding this Investigation without the need for further action, and for good cause shown:

IT IS on this 8th day of October, 2010, **ORDERED** and **AGREED** as follows:

1. EFFECTIVE DATE

1.1 This Consent Order is effective on the date that it is filed with the Division ("Effective Date").

2. DEFINITIONS

As used in this Consent Order, the following words or terms shall have the following meanings, which shall apply wherever the words and terms appear in this Consent Order:

2.1 "Additional Consumer" shall refer to any Consumer who submits to the Division, either directly or through another agency and after the Effective Date, a written Consumer complaint concerning Respondent's business practices.

2.2 "ADR Unit" shall refer to the Alternative Dispute Resolution Unit of the Division.

2.3 "Attorney General" shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.4 "CALA" shall refer to the Consumer Affairs Local Assistance Offices within counties and/or municipalities in the State.

2.5 “Consumer” shall refer to any Person, who is offered Merchandise, defined in accordance with N.J.S.A. 56:8-1(c), for Sale, defined in accordance with N.J.S.A. 56:8-1(d).

2.6 “Employment Application” shall refer to the form that each Person who applies for placement by or employment in the State with Respondent is required to complete pursuant to N.J.A.C. 13:45B-14.2.

2.7 “Health Care Practitioner(s)” shall be defined in accordance with N.J.A.C. 13:45B-14.1 and shall refer to any individual placed or employed in the State by the Respondent for the purpose of rendering Health Care Services.

2.8 “Health Care Services” shall refer to any services rendered to a patient for the purpose of maintaining or restoring the patient’s physical or mental health, or any health related services rendered to a patient for which licensure, registration or certification is required as a pre-condition to the rendering of such services. Such services include assistance with basic life functions such as bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

2.9 “Person[s]” shall refer to any natural person, individual, any business entity (whether partnership, trust, estate, incorporated or unincorporated association, cooperation or corporation), any governmental agency or entity and any other legal or commercial entity, however organized. For purposes of the CFA, “Person[s]” shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.10 “Restitution” shall refer to all methods undertaken by Respondent to resolve Consumer complaints including, but not limited to, the issuance of refunds or the reversal of credit card or debit card charges.

3. INJUNCTIVE RELIEF AND BUSINESS PRACTICES

3.1 Respondent shall not engage in any unfair or deceptive acts or practices in the conduct of its business in the State and shall comply with all applicable State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, the Private Employment Agency Act, the Health Care Firm Regulations, the Practitioner Regulations and the CFA.

3.2 Respondent shall comply with all requirements of the Practitioner Regulations.

3.3 Respondent shall create an Employment Application for each Health Care Practitioner seeking employment with Respondent, which shall include the information required by N.J.A.C. 13:45B-14.2 et seq.

3.4 Respondent shall not place uncertified homemaker-home health aides with patients who have contracted for and/or require the assistance of a certified homemaker-home health aide, in accordance with N.J.A.C. 13:45B-14.4(a).

3.5 Respondent shall have a licensed person evaluate the patients' needs and establish, in writing, a plan of care, in accordance with N.J.A.C. 13:45B-14.9(a).

3.6 Respondent shall have patients enter into a contract which accurately reflects the level and type of care that is required, based on a patient's situation, prior to providing the contracted for services.

3.7 Respondent shall notify the patient if an uncertified and/or an unlicensed individual will be providing the home based services, by providing the patient with all the information required in N.J.A.C. 13:45B-13.8 et. seq.

3.8 Respondent shall maintain accurate scheduling and billing records.

4. EXISTING CONSUMER COMPLAINTS

4.1 Respondent shall pay restitution, pursuant to N.J.S.A. 56:8-15, totaling \$3,150.00 to the consumer listed on the Addendum, attached hereto and made a part hereof, within ten (10) days of the execution of this Consent Order. Restitution payment shall be made individually to the consumer by certified check, attorney's trust check, or money order. A copy of this payment shall simultaneously be sent to: Division of Consumer Affairs, Case Management Tracking, 124 Halsey Street, P.O. Box 45025, Newark, NJ 07101.

4.2 Failure by Respondent to make the restitution payment as prescribed in 4.1 above shall constitute a breach of this Consent Order. In the event of such breach, the Division may seek a Superior Court Order compelling compliance and seeking additional penalties as well as attorney's fees and costs, or take whatever additional action it deems necessary and appropriate under the circumstances of the breach. The Respondent shall have the right to present evidence in defense or mitigation of same.

5. ADDITIONAL CONSUMER COMPLAINTS

5.1 For a period of one (1) year from the Effective Date, the Division shall forward to Respondent copies of any Additional Consumer complaints received by the Division or forwarded to the Division, among other things, by any CALA office. The Division shall forward to Respondent the Additional Consumer complaints within thirty (30) days of the Division's receipt thereof.

5.2 During this one (1) year period, the Division shall notify each Additional Consumer in writing, with a copy to Respondent's designate, of the following: (a) that the Additional Consumer's complaint has been forwarded to Respondent; (b) that he/she should expect a response from Respondent within thirty (30) days; and (c) the right to refer his/her complaint to the ADR Unit

for binding arbitration if Respondent disputes the Additional Consumer's complaint and/or requested relief.

5.3 Within thirty (30) days of receiving the Additional Consumer's complaint from the Division, Respondent shall send a written response to each Additional Consumer, with a copy to the following: New Jersey Division of Consumer Affairs, Office of Consumer Protection, Case Management Tracking Supervisor, 124 Halsey Street, Post Office Box 45025, Newark, New Jersey 07101.

5.4 If Respondent does not dispute the Additional Consumer's complaint and requested relief, Respondent's written response shall so inform the Additional Consumer. Respondent shall contemporaneously provide the requested relief to such Additional Consumer. Where Restitution concerns the reversal of credit or debit card charges, Respondent shall include documents evidencing that such adjustments have been made. Where Restitution concerns a refund or other payment, such shall be made by a check payable to the Additional Consumer.

5.5 If Respondent disputes the Additional Consumer's complaint and/or the requested relief, Respondent's written response shall include copies of all documents concerning Respondent's dispute of the Additional Consumer's complaint.

5.6 Within forty-five (45) days of Respondent's receipt of the Additional Consumer's complaint, Respondent shall notify the Division as to whether such Additional Consumer's complaint has been resolved. Such notification shall include the following:

- (a) The name and address of the Additional Consumer;
- (b) Whether or not the Additional Consumer's complaint has been resolved;
- (c) An identification of any Restitution provided to the Additional Consumer;

- (d) Copies of all documents evidencing any Restitution;
- (e) In the event Respondent's written response was returned as undeliverable, the efforts Respondent had undertaken to locate the Additional Consumer; and
- (f) Confirmation that Respondent sent all mailings to the Additional Consumer as required by this Section.

Following the Division's receipt and verification that an Additional Consumer's complaint has been resolved, the Additional Consumer's complaint shall be deemed closed for purposes of this Consent Order.

5.7 If within sixty (60) days of Respondent's receipt of the Additional Consumer's complaint: (a) Respondent has not notified the Division that the Additional Consumer's complaint has been resolved; (b) Respondent has notified the Division that the Additional Consumer's complaint has not been resolved; or (c) Respondent has notified the Division that the Additional Consumer refuses Respondent's offer of Restitution, the Division shall forward such Additional Consumer's complaint to the ADR Unit to reach a resolution of the complaint through binding arbitration. Respondent agrees herein to consent to this arbitration process and to be bound by the arbitrator's decision. Respondent further agrees to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A. 2A:23B-14, and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. The Division shall notify in writing both the Additional Consumer and Respondent's designate of the referral of the Additional Consumer's complaint to the ADR Unit. Thereafter, upon the consent of the Additional Consumer, the arbitration shall proceed in accordance with the ADR Guidelines.

5.8 If Respondent refuses to participate in the ADR program, the arbitrator may enter a default against Respondent. Unless otherwise specified in the arbitration award, Respondent shall pay all arbitration awards within thirty (30) days of the arbitrator's decision.

5.9 Respondent's failure or refusal to comply with the requirements of Sections 5.3 through 5.6 and/or participate in the arbitration process or pay an arbitration award timely shall constitute a violation of this Consent Order. Under these circumstances, the Division may unilaterally discontinue the Additional Consumer complaint resolution process upon notice to Respondent.

5.10 If an Additional Consumer fails or refuses to participate in the ADR program, that Additional Consumer's complaint shall be deemed closed for the purposes of this Consent Order.

5.11 The Parties may agree in writing to alter any time periods or deadlines set forth in this Section.

5.12 After one (1) year from the Effective Date, either Party may opt out of the Additional Consumer complaint resolution process for any reason at any time.

5.13 Following the expiration of the one (1) year period, Respondent may request to continue the Additional Consumer complaint resolution process for up to three (3) successive one (1) year periods, upon written notice by Respondent to the Division provided thirty (30) days prior to the expiration of the initial or any subsequent one (1) year period. The Division may decline to grant Respondent's request, at its sole discretion for any reason including, but not limited to, those set forth in Section 5.9.

6. SETTLEMENT PAYMENT

6.1 Respondent agrees to pay the amount of Six Thousand Four Hundred Sixty-Seven and 00/100 Dollars (\$6,467.00) to the Division ("Settlement Payment").

6.2 The Settlement Payment shall be comprised of Five Thousand Seven Hundred Fifty Dollars (\$5,750.00) in civil penalties, pursuant to N.J.S.A. 34:8-61 and N.J.S.A. 56:8-19, and Seven Hundred Seventeen Dollars (\$717.00) as reimbursement of the Division's investigative costs, pursuant to N.J.S.A. 34:8-62 and N.J.S.A. 56:8-11.

6.3 Respondent shall make the Settlement Payment in six (6) installments as follows:

- a. The first payment of One Thousand Four Hundred Sixty-Seven and 00/100 Dollars (\$1,467.00) shall be paid on or before the Effective Date; and
- b. The remaining Settlement Payment shall be paid in five (5) equal installments of One Thousand and 00/100 Dollars (\$1,000.00) with each installment due on the first day of each month, beginning October 1, 2010, with the final installment due on February 1, 2011.

6.4 The payments referenced in Section 6.3 shall be made by certified check, attorney trust account check, or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and forwarded to the undersigned:

Attention: Supervisor
Case Management Tracking
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101

6.5 Upon making the payments referenced in Section 6.3, Respondent shall immediately be fully divested of any interest in, or ownership of, the moneys paid. All interest in the moneys, and

any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

7. FORBEARANCE ON EXECUTION AND DEFAULT

7.1 In the event that Respondent fails to make any of the payments referenced in Section 6.3 within fifteen (15) days of their due date, all unpaid amounts due and payable under this Consent Order shall immediately be accelerated and due and payable without the need for notice and presentment, with interest calculated in accordance with R. 4:42-11 from the date of default, and with the Division's cost of collection. In any notice provided by this Section, the Division shall provide Respondent with a fifteen (15) day period within which to cure any default. In addition to the relief provided for in this Section, this default shall also entitle the Division to make an application to the Court for an order directing compliance and any other relief in aid of litigant's rights including an award of attorneys' fees.

7.2 Respondent agrees to pay all reasonable attorneys' fees and costs including, but not limited to, Court costs, associated with any successful collection efforts by the Division pursuant to this Consent Order.

8. GENERAL PROVISIONS

8.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

8.2 The Division has advised the Respondent to seek the advice of an attorney prior to entering into this Consent Order.

8.3 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State.

8.4 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

8.5 This Consent Order contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

8.6 Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

8.7 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

8.8 This Consent Order shall be binding upon Respondent as well as its principals, officers, directors, agents, employees, successors and assigns, and any Person through which it may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct its business.

8.9 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

8.10 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall be construed as: (a) an

approval, sanction or authorization by the Division or any other governmental unit of the State of any act or practice of Respondent; or (b) an admission by Respondent that any of its acts or practices described in or prohibited by this Consent Order are unfair or deceptive or violate the Private Employment Agency Act, the Practitioner Regulations and the CFA. Neither the existence of, nor the terms of this Consent Order shall be deemed to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement any or all of the terms herein; or (b) an action or proceeding involving a Released Claim (as defined in Section 9) to support a defense of res judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

8.11 This Consent Order is a public document subject to the New Jersey Open Public Records Act.

8.12 Unless otherwise prohibited by law, any signatures by the Parties required for filing of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

9. RELEASE

9.1 In consideration of the injunctive relief, Settlement Payment, undertakings, mutual promises and obligations provided for in this Consent Order, the Division hereby agrees to release Respondent from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Division could have brought prior to the Effective Date against Respondent for violations of the Private Employment Agency Act, the Practitioner Regulations and the CFA arising out of the Investigation, as well as the matters specifically addressed in this Consent Order (the “Released Claims”).

9.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action; (b) actions to enforce this Consent Order; and (c) any claims against Respondent by any other agency or subdivision of the State.

10. PENALTIES FOR FAILURE TO COMPLY

10.1 The Attorney General (or designated representative) shall have the authority to enforce the injunctive provisions of this Consent Order or to seek sanctions for violations hereof or both.

10.2 The Parties agree that any future violations of the injunctive provisions of this Consent Order as well as the Private Employment Agency Act, the Practitioner Regulations, and/or the CFA shall constitute a second or succeeding violation under N.J.S.A. 34:8-61 and N.J.S.A. 56:8-13 and that Respondent may be liable for enhanced civil penalties.

11. COMPLIANCE WITH ALL LAWS

11.1 Except as provided in this Consent Order, no provision herein shall be construed as:

- a. Relieving Respondent of its obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- b. Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondent pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Respondent may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

12. NOTICES UNDER THIS CONSENT ORDER

12.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or Respondent pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Jah-Juin Ho
Deputy Attorney General
State of New Jersey
Department of Law and Public Safety
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

For the Respondent:

James Sholom, Managing Director
Right At Home Of Central New Jersey, L.L.C.
43 West Prospect Street
East Brunswick, NJ 08816

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

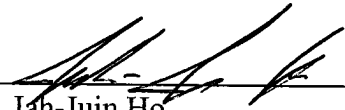
By: 

THOMAS R. CALCAGNI, ACTING DIRECTOR
DIVISION OF CONSUMER AFFAIRS

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER ON THE DATES UNDER THEIR RESPECTIVE SIGNATURES.

FOR THE DIVISION:

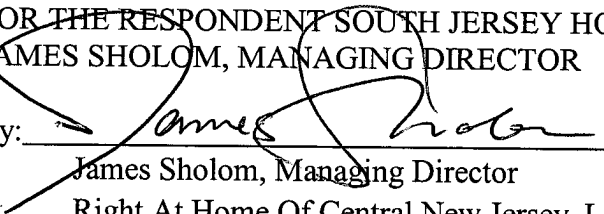
PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: 
Jah-Juin Ho
Deputy Attorney General

Dated: October 7, 2010

Consumer Fraud Prosecution Section
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

FOR THE RESPONDENT SOUTH JERSEY HOME CARE, INC:
JAMES SHOLOM, MANAGING DIRECTOR

By: 
James Sholom, Managing Director
Right At Home Of Central New Jersey, L.L.C.
43 West Prospect Street
East Brunswick, NJ 08816

Dated: 9/29/2010, 2010